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February 4, 2008

VIA HAND DELIVERY

Joel H. Peck, Clerk  
State Corporation Commission  
1300 East main Street, First Floor  
Richmond, Virginia 23218

**Re:** Ex Parte: In the matter of establishing rules and regulations to implement the sale of electricity from renewable sources through a renewable energy portfolio standard program pursuant to §56.585.2 of the Code of Virginia

PUE-2007-00107

Charles E. Bayless  
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Dear Mr. Peck:

We enclose for filing an original and fifteen (15) copies of the Comments of Appalachian Power Company in response to the Commission's Order for Notice of Proceeding to Establish Rules and Regulations for the Sale of Electricity from Renewable Sources Through a Renewable Energy Portfolio Program Pursuant to §56.585.2 of the Code of Virginia.

We enclose an extra copy of this letter and comments to be date-stamped and returned to us by the courier. Thank you for your assistance in this matter.

Very truly yours,

  
Charles E. Bayless

**COMMONWEALTH OF VIRGINIA**  
**STATE CORPORATION COMMISSION**

**COMMONWEALTH OF VIRGINIA, ex rel.**

**STATE CORPORATION COMMISSION**

Case No. PUE-2007-00107

**Ex Parte: In the matter of establishing rules and regulations to implement the sale of electricity from renewable sources through a renewable energy portfolio standard program pursuant to § 56-585.2 of the Code of Virginia**

**COMMENTS OF APPALACHIAN POWER COMPANY**

Appalachian Power Company ("Appalachian" or "Company"), an electric operating company subsidiary of American Electric Power Company, Inc. ("AEP"), files these comments in response to the Virginia State Corporation Commission's ("Commission") Order Establishing Proceeding for the Virginia Renewable Energy Portfolio Standard ("RPS") program.

On April 4, 2007 the General Assembly established incentives for regulated electric utilities to implement the sale of electricity from renewable sources through a RPS program. The statute, Section 56-585.2 of the Code of Virginia, sets forth detailed requirements relating to the incentives offered to regulated utilities to reach certain goals, how attainment of those goals is to be measured, and the identification of the subset of retail customers that will be required to fund the incremental cost of renewable generation, including the specified incentives. Section 56-585.2 G of the statute directs the Commission to "promulgate such rules and regulations as may be necessary to implement the provisions of this section including a requirement that participants verify whether the RPS goals are met in accordance with this section."

Appalachian and AEP have long been one of the industry's most innovative companies, known for their successful development of cost-effective resources from diverse sources. For example, in 1966 at Smith Mountain Lake in Virginia, AEP commenced operations at the nation's first combination pumped storage, run-of-the-river hydroelectric facility. AEP's pumped storage, run-of-the-river hydroelectric facilities and hydroelectric purchased power within and beyond Virginia generate up to approximately 879 MW of electricity. AEP has substantial experience in wind energy and owns or purchases approximately 1,000 MWs of wind energy resources. Of this amount, APCo has begun purchasing 75 MW of existing wind energy and another 100 MW of wind energy is scheduled to be purchased when it becomes operational in 2008.

On January 22, 2008 Appalachian filed an RPS application with the Commission. In its application, Appalachian showed that it has a reasonable expectation of achieving 12 percent of its base year electric energy sales from renewable energy sources, as defined in the statute, during calendar year 2022. The application also showed that Appalachian expects to meet the first RPS goal, 4 percent of total electric energy sold in the base year (as described in Va. Code § 56-585.2), in 2009, a year ahead of the required date. This application addressed all the elements required for Commission approval of Appalachian's RPS plan.

Thus, the Commission does not need to create new rules or procedures for review and consideration of a RPS application. Section 56-585.2 succinctly states the requirements for RPS plan approval as well as RPS goals' attainment. RPS plans can be approved during the application process, where only a simple showing of fact is required. Once a plan is approved incentives can be granted through the Commission's existing proceedings, as discussed in Appalachian's comments. Therefore, the Commission can simply use its existing rules and procedures and still fully comply with the statute.

Appalachian provides the following responses to the issues identified for comment in the Commission's rulemaking.

- (1) Should there be a standard package of data and information that utilities must file in order to demonstrate that they have achieved an RPS goal as those goals change through time as set forth in § 56-585.2D? If so, what data and information should be provided to the Commission? In the alternative, should such applications be instead handled on a case-by-case basis?**

The Commission does not need to require utilities to file a standard package of information to demonstrate that they have achieved any of the RPS goals. To qualify, Virginia Code § 56-585.2 simply requires utilities to meet RPS goals as follows:

RPS Goal I: In calendar year 2010, 4 percent of total electric energy sold in the base year.

RPS Goal II: For calendar years 2011 through 2015, inclusive, an average of 4 percent of total electric energy sold in the base year, and in calendar year 2016, 7 percent of total electric energy sold in the base year.

RPS Goal III: For calendar years 2017 through 2021, inclusive, an average of 7 percent of total electric energy sold in the base year, and in calendar year 2022, 12 percent of total electric energy sold in the base year.

Va. Code § 56-585.2(D).

During the initial application process, a utility will establish the total electric energy it sold during the base year. This base year sales information will provide the

basis for determining each of the RPS goals. Virginia Code § 56-585.2.C provides that the performance incentive shall first be used to calculate a fair rate of return in the first biennial review after a RPS goal is attained and shall remain in effect, through the third biennial review, if the utility continues to meet the RPS goals. So the first biennial review after a RPS goal is achieved is the proper forum for establishing that a utility qualifies for the incentive.

During the biennial review utilities should submit information showing their renewable acquisitions for the prior year. A source for this renewable acquisition data is the PJM Environmental Information Services, Inc. Generation Attribute Tracking System ("GATS") (addressed in question #4). Before submitting it to the Commission the utility should make the required statutory adjustments to the GATS data, such as double credits for energy derived from sunlight or wind. The GATS information can then be compared against the utilities 2007 base energy sales, submitted during the initial application, to verify that the utility acquired the appropriate amount of renewable energy to meet the RPS Goal. If the utility meets the RPS goal it should be granted RPS incentives during that biennial review and all other appropriate proceedings. Utilities should then submit GATS information on a yearly basis to show continued compliance with the appropriate RPS goal.

In addition, each utility may be affected by a number of factors that cause their filing requirements to change, such as evolving generation resource plans and price increases related to certain renewable technologies. These factors may require each utility to progressively alter the manner in which it demonstrates compliance with the pre-defined RPS goals. Therefore, the greatest flexibility is offered by allowing utilities to submit information to demonstrate RPS compliance on a case-by-case basis.

**(2) What special procedural rules, if any, should apply to proceedings regarding applications submitted pursuant to § 56-585.2 of the Code for award of incentives to utilities for RPS goals attained?**

The Commission does not need to establish any special procedural rules regarding applications submitted pursuant to § 56-585.2 of the Code for the award of incentives to utilities for RPS goals attained. As previously stated, Virginia Code § 56-585.2.C provides that the performance incentive shall first be used to calculate a fair rate of return in the first biennial review after a RPS goal is attained. Therefore the biennial review is the proper forum to initially award incentives pursuant to § 56-585.2. During this proceeding a utility merely has to substantiate that they met the statutory requirements as defined in § 56-585.2 of the Code of Virginia. To demonstrate achievement of a goal, utilities should submit GATS based information that reflects statutory adjustments. The adjusted GATS information can then be compared against the utilities 2007 base energy sales to verify that the utility has acquired the appropriate amount of renewable energy to meet the RPS Goal. If the utility achieves the RPS goal during the biennial review, it should be granted RPS incentives. Therefore, no special rules or procedures need to be created to award RPS incentives because these incentives will be granted as part a utility's biennial review.

Once approved in a biennial review, the incentive should be granted in all subsequent proceedings, where RPS incentives are sought, for as long as the utility can substantiate, through its yearly filing, that it meets the applicable RPS goal.

**(3) What special procedural rules should apply to proceedings opened to establish and provide for recovery of all incremental costs incurred for the purpose of such participation in a RPS program?**

Proceedings for the recovery of incremental costs already exist and are in broad use by the Commission. Incremental costs fall into three categories 1) incremental costs for energy purchased through a power purchase agreement ("PPA"); 2) incremental costs for investment in additional renewable sources; and 3) incremental costs associated with incentives.

First, the Commission should allow recovery of incremental costs for energy purchased through a PPA during a utility's annual fuel factor filings pursuant to Va. Code § 56-249.6. Second, the Commission should allow recovery of incremental costs for investment in additional renewable sources through existing proceedings. For example, these costs could be recovered during the utility's base rate case or a surcharge proceeding, as appropriate. Finally, the Commission should allow recovery of incremental costs associated with incentives during any proceeding where return on equity is a component. Examples of these are base rate cases, E&R proceedings, and surcharge proceedings.

Because these incremental costs will be incurred for the purpose of participation in the RPS program, they will be recovered as part of already established proceedings. Therefore, the Commission does not need to hold special proceedings or establish special procedural rules to grant recovery of incremental costs.

**(4) Should a tracking system be required to ensure that renewable resource certificates are appropriately and accurately credited to renewable resource facilities? If so, how should such a tracking system be designed and what entity should maintain the tracking system?**

A comprehensive tracking system should be required to ensure that renewable resource certificates are appropriately credited to renewable resource facilities. The renewable generation-attribute tracking system that functionally aligns with the requirements of the Virginia RPS program and provides a robust administrative structure is the PJM GATS. Administered by PJM Environmental Services, Inc., GATS is a database that tracks the ownership of RECs and generation attributes that result from the generation of electricity as they are traded or used to meet government standards. GATS provides environmental and emissions attributes reporting and tracking services to its subscribers in support of RPS and other information disclosure requirements that may be implemented by government agencies. GATS information can be accessed at <http://www.pjm-eis.com/>.

The GATS database contains megawatt-hour generation information for each individual PJM generation unit. GATS will create generator-specific electronic certificates that identify the relevant generation attributes necessary for electricity suppliers to satisfy state policies and to support voluntary green markets. The major data included in the GATS database are:

- Meter information from the PJM Markets Settlements database,
- Emissions data (primarily sourced from the U.S. Environmental Protection Agency and supplemented from other sources, as available, to improve accuracy and/or timeliness), and
- Static information, such as fuel source, location, state program qualification.

The system collects information on all generation resources, all MWh produced, and all load served within the PJM Control Area. The system is designed to collect information and track ownership of imports of certificates to the system in the same manner, whether from control areas or from behind the meter resources (such as solar).

In addition, GATS records all certificate transfers and provides the following benefits:

- Ensures accurate accounting and reporting of generation attributes
- Facilitates bilateral transactions of the attributes via certificates between market participants
- Supports the current requirements of various state agencies
- Has the flexibility to accommodate varied and evolving state policies or programs,
- Mitigates seams issues with adjoining markets to allow the potential of trading certificates across regions
- Promotes a robust market for electricity from renewable sources.

Generators and load serving entities, among others, must have a system that meets the developing and evolving needs to collect and track information regarding the attributes of the generation supplies and sold within the aforementioned regions to demonstrate compliance with the Virginia RPS Program. GATS provides the attributes and functionality necessary to meet the needs of generators and load serving entities that participate in the Virginia RPS Program.

**(5) The Commission seeks comment as to whether there are programs or elements of programs adopted by other states that may be appropriate and comply with the provisions set forth in § 56-585.2.**

The Company is aware of programs in other states but has not studied these programs in enough detail to be able to comment on the benefits or deficiencies of any of these programs.

**(6) Virginia Code Section 56-585.2 F states in part:**

**A participating utility shall be required to fulfill any remaining deficit needed to fulfill its RPS Goals from new renewable energy supplies at reasonable cost and in a prudent manner to be determined by the Commission at the time of approval of any application made pursuant to subsection B.**

**What standards should the Commission apply in determining the reasonableness and prudence of these resource acquisitions?**

The determination of which acquisitions are reasonable and prudent will vary depending on several factors that include the utility, resource type, and timing of the acquisition. Accordingly, no set standard can be applied to every acquisition. Instead, utilities should be required to demonstrate the reasonableness and prudence of their acquisitions on a case-by-case basis. The determination of reasonableness can be accomplished by examining the acquisition in the context of the utility's Integrated Resource Plan, ("IRP") and other factors, when recovery is sought.

As part of its RPS application Appalachian has already established the reasonableness of its resource acquisitions. In its application, Appalachian demonstrated how the renewable energy it acquired fit into its resource plan. Appalachian then showed that the addition of renewable wind resources have the potential to make capacity and associated energy available to Appalachian at a cost roughly equivalent to alternative, traditional supply-side sources.

**(7) Virginia Code Section 56-585.2 E states in part:**

**All incremental costs of the RPS program shall be allocated to and recovered from the utility's customer classes based on the demand created by the class and within the class based on energy used by the individual customer in the class, except that the incremental costs of the RPS program shall not be allocated to or recovered from customers that are served within the large industrial rate classes of the participating utilities and that are served at primary or transmission voltage.**

**How shall the Commission determine which customer classes and subclasses should be construed to fall within the "large industrial rate classes of participating utilities" that are not to be allocated incremental costs of the RPS program, given that such a customer may be served at transmission or primary voltage?**

The Commission should determine the group of eligible customers on a utility-by-utility basis delineated along current tariff lines rather than set a specific value to determine "large industrial rate classes of participating utilities." This determination would allow each utility to easily identify an applicable customer group.

APCo-Va has a tariff designated as Large Power Service Time-of-Day (LPS-TOD) under which customers must have normal maximum capacity requirements greater than 1,000 KW. This tariff represents the largest power users for APCo-Va. This tariff is divided into 4 schedules by voltage level; secondary, primary, subtransmission and transmission. Customers are also grouped into commercial and industrial classifications. Industrial customers served by the LPS-TOD tariff who use the primary voltage level or greater could be identified as large industrial rate class customers, for the purpose of the RPS statute. As of December 2007, the Company has 146 customers that would qualify for the large industrial rate class exemption with the above limitations.

### **Conclusion**

Once the Commission has approved a utility's application to participate in a RPS program the Virginia RPS statute simply requires utilities to substantiate that they have achieved the RPS goals. The Commission already has in place the tools required to administer the RPS program. Incentives should be awarded during the first biennial review after a utility attains a RPS goal. Once these incentives are awarded, the utility should then be eligible for incentives in all other applicable proceedings without the need to show compliance with RPS goals. Finally, utilities should submit GATS based data on a yearly basis to show their continued compliance with the RPS goals. As a result, the Commission does not need to adopt new procedures to administer the RPS program. The existing processes and procedures are adequate.

Respectfully submitted

APPALACHIAN POWER COMPANY

By: \_\_\_\_\_

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